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**HOUSE BILL 1693**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Jinkins, Cody, Robinson, Macri, Riccelli, Tharinger, Appleton, and Doglio

AN ACT Relating to establishing a system for setting rates for health care services; and adding a new chapter to Title 70 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the health care rate-setting commission established in section 2 of this act.

(2) "Contracting affiliation" means any relationship between two or more health care entities that permits the entities to negotiate jointly with carriers or third-party administrators over rates for professional medical services, or for one entity to negotiate on behalf of the other entity with carriers or third-party administrators over rates for professional medical services.

(3) "Department" means the department of health.

(4) "Health service area" has the same meaning as in RCW 70.38.025.

(5) "Hospital" means any entity that is:

(a) Defined as a hospital in RCW 70.41.020 and is required to obtain a license under RCW 70.41.090; or

(b) A psychiatric hospital required to obtain a license under chapter 71.12 RCW.

(6) "Rate" means the maximum revenue which a hospital may receive for each unit of service, as determined by the commission.

NEW SECTION. **Sec.**  (1) The health care rate-setting commission is established.

(2) The commission must be composed of the following nine members appointed by the governor:

(a) Three members representing consumers of health care services, at least one of whom represents the interests of low-income persons;

(b) One member representing private employers;

(c) One member representing labor interests;

(d) One member representing hospitals;

(e) One member representing health care professionals;

(f) One member representing private health insurers or health care service contractors; and

(g) The director of the health care authority, or the director's designee.

(3) The commission may establish technical advisory groups to make recommendations on particular issues requiring special expertise.

(4) The department shall provide administrative and research support to the commission. Other agencies are expected to collaborate with the department to provide the necessary data for the commission to conduct its work, including the health care authority, the office of the insurance commissioner, the department of labor and industries, and the office of financial management.

NEW SECTION. **Sec.**  The commission shall:

(1) Establish and approve rates for health care entities that are subject to rate-setting activities under section 4 of this act;

(2) Initiate reviews and investigations of rates for health care services as necessary to establish initial health care entity rates and periodically update health care entity rates;

(3) Develop methodologies for determining whether or not rates for health care services meet the criteria established in section 4(3) of this act and to establish new rates as necessary to meet those criteria;

(4) Compile and maintain all relevant financial, accounting, and patient discharge data in order to have available the statistical information necessary to properly conduct rate review and approval. Such data shall include necessary operating expenses, expenses incurred for charity care and for rendering uncompensated care, all properly incurred interest charges, and reasonable depreciation expenses. The commission shall establish interagency agreements as necessary to obtain data from other state agencies;

(5) Establish policies to protect the confidential patient data and proprietary business data;

(6) Adopt a schedule for updating rates adopted pursuant to section 4 of this act; and

(7) Adopt rules as necessary to implement and administer the requirements of this chapter.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2022, if a hospital enters into a merger, acquisition, or contracting affiliation with another hospital or one or more physician provider organizations with more than eight physicians within the hospital's health service area, as defined in its approved certificate of need, the commission shall commence rate-setting activities applicable to the health care entities involved in the merger, acquisition, or contracting affiliation.

(2) The hospitals or physician provider organizations shall submit information, as requested by the commission, to allow the commission to review each health care entity's current rates as applicable to all purchasers of health care services.

(3) The commission shall review each health care entity's rates to assure all purchasers of health care services that the total costs of a hospital or physician provider organization are reasonably related to the total services offered by that hospital or physician provider organization, that costs do not exceed those that are necessary for prudently and reasonably managed hospitals or physician provider organizations, that the hospital's or physician provider organization's rates are reasonably related to the hospital's or physician provider organization's aggregate costs, and that rates are set equitably among all purchasers or classes of purchasers of health care services without undue discrimination or preference. In the determination of reasonable rates, the commission shall consider that it is its obligation to assure access to necessary, effective, economically viable, and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital or physician provider organization subject to this chapter except where the insolvency of a hospital or physician provider organization would seriously threaten the access to the rural public to basic health care services.

(4) Upon completion of its review of each hospital's or physician provider organization's rates under subsection (3) of this section, the commission shall use all available information to modify and reestablish the hospital's or physician provider organization's rates for health care services that do not meet the criteria in subsection (3) of this section.

(5) Thirty days after the adoption of the new hospital rates under subsection (4) of this section, the rates become effective. Upon the effective date of the rates, a hospital or physician provider organization may not charge for health care services at rates exceeding those established by the commission.

NEW SECTION. **Sec.**  (1) The commission shall establish a schedule for updating the rates adopted pursuant to section 4 of this act. The schedule must require that each hospital's or physician provider organization's rates are reviewed at least every two years. The commission may choose to update rates for select categories of health care services on a regular basis, rather than updating an entire rate schedule at once.

(2) The commission shall establish criteria and procedures to allow a hospital or physician provider organization to request that its rates or select categories of rates be updated earlier than the schedule established in subsection (1) of this section due to extraordinary circumstances.

NEW SECTION. **Sec.**  The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter by a hospital or physician provider organization charging a rate for health care services that is higher than the rate established under this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  (1) The commission shall develop an implementation plan to establish all aspects of its rate-setting activities. The implementation plan must address:

(a) Necessary data to conduct rate-setting activities and identify existing sources of data;

(b) Methodologies for determining reasonable rates for health care services;

(c) Procedures to allow for participation by hospitals that are subject to hospital rate-setting activities; and

(d) Future funding needs for the commission and possible funding sources.

(2) By December 1, 2019, the commission shall report to the joint select committee on health care oversight on its work plan to develop the implementation plan, including any legislation that may be necessary to complete the implementation plan. By December 1, 2020, the commission shall submit the implementation plan to the governor and the legislature. The implementation plan must identify elements of the implementation plan that require legislative authority to allow full implementation to take effect by January 1, 2022.

NEW SECTION. **Sec.**  Information submitted to the commission must be confidential in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

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